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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,721	11/13/2002	Gordon A. Belt	70254-0355	6155
20915	7590	06/17/2004	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			HYLTON, ROBIN ANNETTE	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,721

Applicant(s)

BELT ET AL.

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) 22, 25, 28, 29, 31, 56-58, 61-64, 66-72, 75 and 76 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21, 23, 24, 26, 27, 30, 32-55, 59, 60, 65, 73, 74 and 77-80 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Group I -- a lid as depicted in figures 1-15,

Group II -- a lid as depicted in figures 16-18,

Group III -- a lid as depicted in figures 19-23,

Group IV -- a lid as depicted in figures 24-30, and

Group V -- a lid as depicted in figures 31-35.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.
MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the

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species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Mark Davis on March 30, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-21,23,24,26,27,29,30,32-55,59,60,65,67,68,73,74, and 77-80. Affirmation of this election must be made by applicant in replying to this Office action. Claims 22,25,28,31,56-58,61-64,66,70-72,75,76 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Additionally, claims 29 and 67-69 are also withdrawn by the examiner as depending from non-elected claims.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

4. Claims 1-21,23,24,26,27,30,32-55,59,60,65,73,74, and 77-80 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the claims are rejected for the following reasons:

The structure of the lid is not clearly set forth in the claims. In claim 1, it is unclear if the base or the drinking opening defines the well with the annular groove. For the purpose of

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examination, the claim is interpreted to read the base defines the well with the annular groove.

Claims 2,43, and 44 are redundant since "annular" by definition is continuous since it is defined as "shaped like or forming a ring"¹.

It is unclear in claims 6 and 48 how the peripheral wall "transitions into a surface". The peripheral wall is a surface.

It is unclear (in claims 7 and 49) how the annular edge and the annular groove each have a major radial portion to limit the relative rotation between the cap and the base or draw the cap toward the base since annular is by definition a ring.

Claim 32 recites the limitation "tab" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,2,21,27,30,32,42-44,48,55,73,74 and 77-80 are rejected under 35 U.S.C. 102(b) as being anticipated by Weinstein (US 5,058,778).

¹ *The American Heritage® Dictionary of the English Language, Third Edition* copyright © 1992 by Houghton Mifflin Company. Electronic version licensed from INSO Corporation; further reproduction and distribution restricted in accordance with the Copyright Law of the United States. All rights reserved.

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Disclosed is mounting ring 109, base 107 defining a well with an annular groove 119, cap 141 with plug 149, and annular edge 143 for engaging the annular well. The mounting ring 105 is a channel and receives the rim 103 of the cup.

7. Claims 32-34,55,59,60,65,73,74, and 77-80 are rejected under 35 U.S.C. 102(b) as being anticipated by LaChance (US 4,141,461).

Disclosed is mounting ring 16, base 17 with a drinking opening 18, a cap 14 with plug 19 for engaging the opening. Given the broadest reasonable interpretation, the spring, lever and slot are considered a detent since it acts as a mechanism to lock the movement of the lid with respect to the base.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 23,59 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weinstein in view of Schaefer (US 6,578,726).

Weinstein teaches the claimed lid except for gripping projections extending from the cap.

Schaefer teaches it is known to provide a cap with gripping projections.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of gripping projections to the cap of Weinstein. Doing so assists with rotation of the cap upon the base.

Allowable Subject Matter

10. Claims 3-20,24,26,35-41,45-47,49-54, and 60 appear to overcome the art and be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other prior art references are cited for teaching features similar to those disclosed and/or claimed.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

13. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-7306 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

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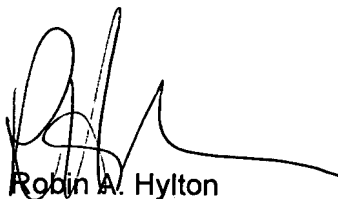
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Technology Center 3700 Customer Service Office at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH
June 11, 2004



Robin A. Hylton
Primary Examiner
GAU 3727